



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0063; Notice 2]

Foreign Tire Sales, Inc., Denial of
Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT)

ACTION: Denial of Petition

SUMMARY: Foreign Tire Sales, Inc. (FTS), as importer for ProMeter brand medium truck radial replacement tires manufactured by Shandlong Linglong Rubber Company Limited, has determined that certain replacement tires manufactured during the period between the 15th week of 2008 and 22nd week of 2009 do not fully comply with paragraph S6.5(d) of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles With a GVWR of More than 4,536 Kilograms (10,000 pounds) and Motorcycles*. FTS has filed an appropriate report dated June 11, 2009, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

ADDRESSES: For further information on this decision, contact Mr. Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310.

SUPPLEMENTARY INFORMATION:

FTS's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the regulation implementing those provisions at 49 CFR part 556, FTS has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of FTS's petition was published with a 30-day public comment period, on June 8, 2010, in the Federal Register (75 FR 32536). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-0063."

Tires Involved: Affected are approximately 2,659 size 285/75R-24.5 14 ply (steer and drive) and 295/75R-22.5 14 ply (steer and drive) ProMeter brand medium truck radial tires manufactured during the period between the 15th week of 2008 and 22nd week of 2009 with DOT Numbers: 285/75R-24.5 - OU4CFTS1508-OU4CFT2209 and 295/75R-22.5 - OU34FTS1508-OU34FTS2209.

Summary of FTS'S Analysis: FTS stated that it believed that 100% of the 2,659 tires involved contained the identified non-compliance. FTS says it sold these tires to eleven customers who are distributors. Three of the eleven distributors have not sold any of these tires to their customers.

In a supplemental letter dated April 14, 2010, FTS submitted corrections of typographical errors in its petition and stated that subsequent to submitting its petition it had decided to remedy all of the subject tires that it held in its possession as well as those that had not been sold by its customers (the eleven tire distributors). FTS also revised its estimate of the number of affected tires to 2,000, which encompasses tires that had been sold and not retrieved for remedy. Therefore, it is only those 2,000 tires for which FTS is requesting exemption from the notification and remedy requirements because it claims that the remaining 659 tires have been remedied.

FTS describes the noncompliance as its failure to provide accurate load and inflation information as required by FMVSS No. 119. The maximum load rating and corresponding inflation pressure that are erroneously marked on the FTS tires and the correct information for the non-conforming tires are as follows:

295/75R22.5/14 is marked:

Max. Load Single 2800 kg (6175 lbs) at 720 kPa (105 psi) cold.

Max. Load Dual 2650 kg (5840 lbs) at 720 kPa (105 psi) cold.

295/75R22.5/14 should be marked:

Max. Load Single 2800 kg (6175 lbs) at 760 kPa (110 psi) cold.

Max. Load Dual 2575 kg (5675 lbs) at 760 kPa (110 psi) cold.

285/75R24.5/14 is marked:

Max. Load Single 3000 kg (6610 lbs) at 720 kPa (105 psi) cold.

Max. Load Dual 2725 kg (6005 lbs) at 720 kPa (105 psi) cold.

285/75R24.5/14 should be marked:

Max. Load Single 2800 kg (6175 lbs) at 760 kPa (110 psi) cold.

Max. Load Dual 2575 kg (5675 lbs) at 760 kPa (110 psi) cold.

FTS states that the non-compliance of its tires was brought to its attention on June 9, 2009, "when new molds were ordered and the old molds were compared to the new molds."

FTS also states that it has advised the manufacturer to hold any additional non-conforming tires and to change the inaccurate information on the tires before exporting them to the United States.

FTS argues that the inaccurate markings on the tires are inconsequential because the difference between the proper load ranges and inflation pressures are minimal. FTS bases its conclusion on its testing of the subject tires using the inaccurate information noted on its tires, and FTS asserts that the tires "greatly exceed all FMVSS testing result requirements." Specifically, FTS points out that it subjected the tested tires to a modified FMVSS No. 119 endurance test

which it states "is far more demanding than the requirements of FMVSS 119."

FTS submitted with its application for exemption from notification and remedy requirements a copy of eight endurance test reports, originally written in Chinese, and the English translation of those reports. FTS states that "These tests performed using the load inflation information which appears on the subject tires clearly indicates that even at the wrong inflation pressure, these tires greatly exceed FMVSS 119 and are safe." FTS additionally states that "the mislabeling of the tires poses absolutely no safety issue since even if a user of the tires inflates the tire to the load inflation pressure contained on the side wall of the subject tire, we know that the tire greatly exceeds all requirements (i.e. the tires ran almost three times longer than required by FMVSS 119 at loads increased by 10% every ten hours (nine times over 130 hours))."

In summation, FTS requests that NHTSA deem this issue as "incidental mislabeling" as it has no bearing on the safety of the tires, therefore requests that FTS's petition, to exempt FTS from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedy the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

Parts in Pertinent:

Requirements Background:

Paragraph S6.5(d) of FMVSS No. 119 requires in pertinent part:

S6.5 Tire markings. Except as specified in this paragraph, each tire shall be marked on each sidewall with the information specified in paragraphs (a) through (j) of this section. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings shall be in letters and numerals not less than 2 mm (0.078 inch) high and raised above or sunk below the tire surface not less than 0.4 mm (0.015 inch), except that the marking depth shall be not less than 0.25mm (0.010 inch) in the case of motorcycle tires. The tire identification and the DOT symbol labeling shall comply with part 574 of this chapter. Markings may appear on only one sidewall and the entire sidewall area may be used in the case of motorcycle tires and recreational, boat, baggage, and special trailer tires...

(d) The maximum load rating and corresponding inflation pressure of the tire, shown as follows:

(Mark on tires rated for single and dual load): max load single ____kg (____lb) at ____kPa (____psi) cold. Max load dual ____kg (____lb) at ____kPa (____psi) cold.

(Mark on tires rated only for single load): Max load ____kg (____lb) at ____kPa (____psi) cold.

NHTSA'S Analysis of FTS'S Reasoning: Foreign Tire Sales (FTS) acknowledges that the subject tires are marked with a maximum load rating higher than the intended correct value and a corresponding inflation pressure lower than the intended correct value, but contends that the tires are safe for use based on additional tests conducted at the incorrectly marked inflation pressure and at loads greater than the incorrectly marked

maximum load rating. The maximum load rating and corresponding inflation pressure that are erroneously marked on the subject FTS tires, size 295/75R22.5/14 and 285/75R24.5/14 and of the correct information for the non-comforming tires as follows: For the subject 295/75R22.5/14 tires, they are marked Max. Load Single 2800 kg (6175 lbs) at 720 kPa (105 psi) cold and Max. Load Dual 2650 kg (5840 LBS) at 720 kPa (105 psi) Cold. The correct labeling for these tires are: Max. Load Single 2800 kg (6175 lbs) at 760 kPa (110 psi) Cold and Max. Load Dual 2575 kg (5675 lbs) at 760 kPa (110 psi) cold. For the subject 285/75R24.5/14 tires, they are marked Max. Load Single 3000 kg (6610 lbs) at 720 kPa (105 psi) cold and Max. Load Dual 2725 kg (6005 lbs) at 720 kPa (105 psi) cold. The correct labeling for these tires are: Max. Load Single 2800 kg (6175 lbs) at 760 kPa (110 psi) cold and Max. Load Dual 2575 kg (5675 lbs) at 760 kPa (110 psi) cold.

The additional testing conducted by FTS on the subject tires to support its basis that the tires are safe for use consisted of eight (8) modified FMVSS No. 119 tests, in which the tires were tested at the incorrectly marked inflation pressure and at loads increased by 10% every ten hours of testing up to almost three times longer than that required by FMVSS No. 119. FTS argues that the inaccurate markings on the subject tires are inconsequential because the difference between

the proper load ranges and inflation pressures are minimal. FTS further argues that based on its modified FMVSS No. 119 testing, even if a user of the subject tires inflates the tire to the load inflation pressure as marked on the sidewall of the subject tires, the tires greatly exceed FMVSS No. 119 and are safe.

The Agency does not agree with FTS that the noncompliance of the subject tires is inconsequential to motor vehicle safety. The Agency does not consider the difference between the marked load ranges and inflation pressures of the subject tires as compared to the proper marking of load ranges and inflation pressures to be minimal. For example, due to the improper tire marking, the maximum load rating (single) for the subject 285/75R24.5/14 tires is over-rated by 435 lbs and the maximum load rating (dual) for the subject 295/75R22.5/14 tires is over-rated by 165 lbs. Overloading can result in handling or steering problems, brake failure, and tire failure. An under-inflated tire is also a safety concern since the greater the under-inflation, the more the sidewalls of a tire can flex, which increases the internal heat generated and makes the tire more susceptible to failure.

In addition, the Agency does not consider eight (8) additional FMVSS No. 119 endurance tests, even as conducted by FTS with increasing loads and test durations, an adequate basis to support that the subject tires are safe for use as improperly

marked. The maximum load ratings and inflation pressures as erroneously marked on the subject tires are outside the intended safe operating limits of the tires as designed for manufacture and proper use. The subject tires as improperly marked indicate a maximum load rating value above that designed for the tire, along with an inflation pressure lower than that designed for the tire. A tire loaded above its designed maximum load rating at a corresponding inflation pressure below the value for which the tire was designed creates a compounding safety problem which clearly impacts the defined purpose of FMVSS No. 119, which includes placing "the correct information on tires to permit the proper selection and use, and safe operation of the tire".

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, FTS's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

Dated: November 21, 2013.

Nancy Lummen Lewis
Associate Administrator
for Enforcement

Billing code: 4910-59-P

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